

IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN
]BENCH AT JAIPUR
S.B. CIVIL WRIT PETITION NO.8799/07
Jagdish Prasad Vs. Ganga Sahay & Ors.

Date of order : 29/11/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Mahesh Gupta for the petitioner.
Shri B.C. Jain for the respondent.

Heard learned counsel for the
petitioner.

The petitioner has challenged the
order passed by the District Collector
dated 24.8.2007 and the Standing
Committee of the Panchayat Samiti, Dausa
dated 9.10.2006.

The Standing Committee of the
Panchayat Samiti, Dausa cancelled the
patta no.295 dated 20.1.2006 issued to
the petitioner holding that the patta was
issued to the petitioner in illegal
manner over the land which according to

it was the land of a public way. The Members of the Standing Committee inspected the cite and thereafter also procured the report of the Commissioner and on consideration of the entire record came to hold that two parallel files were maintained for issuing patta of the same piece of land in disregard of compliance of the rules. The appeal of the petitioner was dismissed by the Collector while concurring with the view taken by the Standing Committee.

Whether or not the petitioner can claim title over the disputed land and whether he has raised certain constructions are all questions of fact which can be better adjudicated upon by the civil court. So far as the patta issued to the petitioner is concerned, that could not be justified and therefore the Collector upheld the order of the

Standing Committee of the Panchayati Samiti.

Upon hearing the learned counsel for the parties, I find that the findings of both the courts especially in the light of the fact that questions whether patta was issued to the petitioner over a land which was the land of public way and whether the petitioner has been having possession of the land since the times of his ancestors and whether he has raised any construction are all questions of facts. Learned counsel for the petitioner at this stage submitted that on account of patta issued to the petitioner, he has already withdrawn the civil suit against the Development Officer and Standing Committee and that the cancellation of patta may come in his way in again approaching the civil court in spite of the observations made by the District

Collector. In my considered opinion, the controversy that is subject matter of this writ petition and was subject matter of examination of Standing Committee and Collector was with regard to validity of patta. Independent of that, if there are rights of the petitioner, he is always free to approach the Civil Court. Anything said in this judgment or observations made by either the Collector or the Standing Committee of the Panchayat Samiti except in so far as they pertain to validity of the patta issued would not come in the way of either of the parties.

With these observations, the writ petition is dismissed.

(MOHAMMAD RAFIQ), J.

RS/